

REMARKS

Claims 1-15 are pending in the application. Claims 1, 2, 3, and 9 are in independent form.

Claims 1, 2, and 4-12 stand objected to because of informalities. The informalities have been corrected as requested in the outstanding Office Action and reconsideration of the rejection is respectfully requested.

Claims 1, 3, 9, 11, 13, and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the Small patent. Reconsideration of the rejection under 35 U.S.C. § 102(b), as anticipated by the Small patent, as applied to the claims, is respectfully requested. Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

In Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 U.S.P.Q. 81 (Fed. Cir. 1986) it was stated: "For prior art to anticipate under §102 it has to meet every element of the claimed invention."

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim."

The Office Action states that the Small patent discloses an assembly having the structure claimed in the presently pending independent claims including a wear member 13, support structure 11, first passage 20, second passage 18, pin retainer 25, and pin means 22 that extends through the first passage and into the second passage for locking the wear member to the support structure and bearing substantially all of the wear member removal compressive forces during the use of the wear member as shown in Figures 1, 3, and 5. However, when read more specifically, the Small patent discloses a system in which the pin retainer must be fabricated from a malleable metal.

That is, it must be "capable of being extended or shaped by beating with a hammer or the pressure of rollers." The pin retainer must then be physically deformed by hammering during the installation before the pin retainer can retain the pin. In contradistinction, the presently pending independent claims claim a pin retainer that experiences no deformation during installation. Instead, it is preferred that the pin retainer be made of resilient material but compresses elastically during use when the pin shifts into a load bearing position. The resilient pin retainer can experience elastic deformation but not plastic deformation so that the pin can later be easily unscrewed for tooth replacement. Therefore, the resilient pin retainer of the presently pending independent claims is necessarily formed of a non-malleable material because a malleable material would not provide the required elastic deformation. Since the Small patent does not disclose the resilient pin retainer included in the assembly of the presently pending independent claims, the claims are patentable over the Small patent and reconsideration of the rejection is respectfully requested.

It is respectfully requested that the present amendment be entered in order to place the application in condition for allowance or at least in better condition for appeal. The application is placed in condition for allowance as it addresses and resolves each and every issue that remains pending. Further, the claims have been amended to more specifically define the invention while raising no new issues that would require any further searching. Rather, the amendments have been made in view of comments made in the Office Action that clearly distinguish the presently pending claims over the cited prior art. Hence, it is respectfully requested that the amendment be entered.

This amendment could not have been made earlier as the amendment further defines over the claims the prior art in accordance with the suggestion made in the Office Action, the suggestion first being made in the outstanding Office Action. Hence, since there remains no further issues to be resolved, it is respectfully requested that the present amendment be entered.

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In conclusion, it is respectfully requested that the present amendment be entered in order to place the application in condition for allowance, which allowance is respectfully requested.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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VERSION SHOWING MARKED CHANGES

1. (currently amended) An assembly for operatively attaching a wear member to a support structure, wherein the wear member and support structure, respectively, have a first and second passage, which are co-extensive and form a common passage when the wear member is operatively coupled to the support structure, the assembly comprising:

a resilient pin retainer receivable in a non-rotatable position within the first passage; and

pin means insertable within the pin retainer and extending through the first passage and into the second passage for operatively locking the wear member to the support structure, and in combination with the support structure, for bearing substantially all of the wear member-removal [compressive] forces during use of the wear member.

2. (currently amended) An assembly for operatively attaching a wear member to a support structure, wherein the wear member and support structure, respectively, have a first and second passage, which are co-extensive and form a common passage when the wear member is operatively coupled to the support structure, the assembly comprising:

a resilient pin retainer receivable in a non-rotatable position within the first passage, the pin retainer being threaded internally; and

pin means having threaded portions corresponding to the threaded portions of the pin retainer, wherein when the pin means is inserted into the pin retainer by the application of torque force, the pin means extends through the first passage and into the second passage for operatively locking the wear member to the support structure, and in combination with the support structure, for bearing substantially all of the wear member-removal [compressive] forces during use of the wear member.

3. (currently amended) An assembly for operatively attaching a wear member to a support structure, wherein the wear member and support structure, respectively, have a first and second passage, which are co-extensive and form a common passage when the wear member is operatively coupled to the support structure, the assembly comprising:

a resilient pin retainer receivable in the first passage in the wear member, said pin retainer having an outer surface, an inner end and an outer end; and

pin means insertable within the pin retainer and extending through the first passage and into the second passage for operatively locking the wear member to the support structure, and in combination with the support structure, for bearing substantially all of the wear member-removal [compressive] forces during use of the wear member.

4. (currently amended) The assembly of claim 3 wherein the retaining means comprises at least one mating surface on each of the pin retainer and the first passage, said mating surfaces cooperating to retain the pin retainer in the non-rotatable position in the first passage.

5. (currently amended) The assembly of claim 4 wherein the retaining means comprises at least one flat wall on the surface of the pin retainer and at least one corresponding flat surface on the inner surface of the first passage in the wear member wherein the flat wall of the pin retainer and the flat surface of the first passage correspond when the pin retainer is inserted into the first passage to maintain the pin retainer in the first passage in [a] the non-rotatable position.

6. (previously amended) The assembly of claim 5, wherein the retaining means comprises a plurality of flat walls on each of the pin retainer and the first passage, which cooperate when the pin retainer is inserted into the first passage to retain the pin retainer in the non-rotational position.

7. (original) The assembly of claim 4 wherein the retaining means further comprises a band on the pin retainer having a larger diameter than the immediate adjacent portions of the pin retainer; and a groove in the first passage wherein the band on the pin retainer is received into the groove in the first passage to maintain the pin retainer in position when the pin retainer is inserted into the first passage.

8. (original) The assembly of claim 4 wherein the retaining means further comprises a tapered surface on the outer surface of the pin retainer having the outer end of the pin retainer with a diameter less than the diameter of the inner end, and the first passage having a corresponding tapered inner surface, wherein when the pin retainer is inserted into the first passage and the wear member is operatively positioned on the support structure, the retaining means is held in position in the first passage.

9. (currently amended) A method for locking a wear member to a support structure, wherein the wear member has a first passage and the support structure has a second passage, which are co-extensive when the wear member is operatively coupled to the support structure, comprising the steps of:

inserting a resilient pin retainer into the first passage in the wear member whereby the pin retainer is held in a non-rotatable position;

coupling the wear member to the support structure so that the first and second passages are co-extensive; and

inserting a pin means into the pin retainer by the application of torque force, wherein the pin means extends through the first passage and into the second passage to operatively lock the wear member to the support structure, the pin means, in combination with the support structure, bearing substantially all of the wear member-removal [compressive] forces during use of the wear member.

10. (original) The method of claim 9 wherein the pin retainer and the first passage have corresponding surfaces which cooperate to retain the pin retainer in non-rotatable position.

11. (original) The method of claim 9 wherein the pin retainer and the first passage have corresponding surfaces which cooperate to retain the pin retainer in the first passage.

12. (original) The method of claim 10 wherein the pin retainer is held in the first passage by the support structure when the wear member is operatively positioned on the support structure.

13. (previously added) The assembly of claim 1, wherein the central longitudinal axis of the first passage is forward of the central longitudinal axis of the second passage to allow the pin means to tightly lock the wear member to the support structure.

14. (previously added) The assembly of claim 2, wherein the central longitudinal axis of the first passage is forward of the central longitudinal axis of the second passage to allow the pin means to tightly lock the wear member to the support structure.

15. (previously added) The assembly of claim 3, wherein the central longitudinal axis of the first passage is forward of the central longitudinal axis of the second passage to allow the pin means to tightly lock the wear member to the support structure.